

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DEANNA MARLENE BELLAVIA,

Plaintiff,

v.

22-CV-842-LJV-JJM  
DECISION & ORDER

ORLEANS COUNTY, *et al.*,

Defendants.

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On November 4, 2022, the plaintiff, Deanna Marlene Bellavia (“King”),<sup>1</sup> commenced this action under 42 U.S.C. § 1983. Docket Item 1. She alleges that in January 2021, her ex-husband, David Bellavia (“Bellavia”), conspired with officials in the Orleans County Sheriff’s Department and the Orleans County District Attorney’s Office to have her arrested. *Id.* She sues Bellavia, as well as Orleans County, the Orleans County Sheriff’s Department, the Orleans County District Attorney, Orleans County District Attorney Investigator Corey Black, and a “John Doe” Orleans County Sheriff’s Department Deputy (the “Orleans defendants”). *Id.* On December 26, 2022, United States District Judge John L. Sinatra referred the case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B).<sup>2</sup> Docket Item 12.

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<sup>1</sup> In the caption of the complaint, King lists her name as “Deanna Marlene Bellavia aka Deanna King.” Docket Item 1 at 1 (some capitalization omitted). But throughout the complaint, she refers to herself as “King.” *See generally* Docket Item 1. This Court therefore does the same.

<sup>2</sup> The case was reassigned to this Court after Judge Sinatra recused himself on August 7, 2023. See Docket Item 53.

Judge Sinatra previously dismissed King's claim against Bellavia. Docket Items 36 and 37; see Docket Item 29 (Judge McCarthy's initial report and recommendation). King then moved to amend her complaint, including the claim against Bellavia, Docket Item 45, and the Orleans defendants moved to dismiss the claims against them, Docket Item 48. After the parties briefed those motions, see Docket Item 50 (Bellavia's response to King's motion to amend); Docket Item 54 (King's response to the Orleans defendants' motion to dismiss); Docket Item 56 (the Orleans defendants' reply in support of their motion to dismiss), Judge McCarthy issued a Report and Recommendation ("R&R") finding that King's motion to amend should be denied and the Orleans defendants' motion to dismiss should be granted, Docket Item 57. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge McCarthy's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts

Judge McCarthy's recommendation to deny King's motion to amend and grant the Orleans defendants' motion to dismiss.

For the reasons stated above and in the R&R, King's motion to amend, Docket Item 45, is DENIED; the Orleans defendants' motion to dismiss, Docket Item 48, is GRANTED; the complaint, Docket Item 1, is dismissed; and the Clerk of the Court shall close the file.

SO ORDERED.

Dated: April 11, 2024  
Buffalo, New York

/s/ Lawrence J. Vilardo  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE